

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

COMMODITY FUTURES TRADING
COMMISSION,

Plaintiff,

v.

WALL STREET UNDERGROUND,
INC.,
a Delaware Corporation;
WEB FULFILLMENT CENTRE, INC.,
a Delaware Corporation;
DEREK ABRAHAMS, FRANK ASARO
and NICHOLAS A. GUARINO, JR.,

Defendants.

CIVIL ACTION

No. 03-2193-CM

STATUTORY RESTRAINING ORDER

The Court having read the Complaint for Injunctive and Other Equitable Relief and Civil Monetary Penalties Under the Commodity Exchange Act, the Plaintiff's Motion for a Statutory *ex parte* Restraining Order ("SRO"), the Memorandum in Support of Plaintiff's Motions for a Statutory *ex parte* Restraining Order and a Preliminary Injunction, the declarations of Donald Nash, John Yang, Curt Kubert, Frederick Belyea, Scott P. Wilson, Kenneth King, the attachments thereto, and selections from the transcript of sworn testimony given by Frank Asaro and Liana Sampey on March 5th and 6th, 2002, and all other papers filed herein by the Plaintiff, Commodity Futures Trading Commission ("Commission"); it appearing that the Court has jurisdiction over the subject

matter and that Section 6c(a) of the Commodity Exchange Act, as amended ("Act"), 7 U.S.C. § 13a-1(a) (2000), permits this Court to grant a statutory *ex parte* restraining order; it further appearing to the satisfaction of the Court that there is good cause to believe that Wall Street Underground, Inc. ("WSU"), Web Fulfillment Centre, Inc. ("Web"), Derek Abrahams ("Abrahams"), Frank Asaro ("Asaro") and Nicholas A. Guarino, Jr. ("Guarino") (collectively the "Defendants") have engaged in, are engaging in and is about to engage in violations of Sections 4o(1)(A) and 4o(1)(B) of the Commodity Exchange Act ("the Act"), 7 U.S.C. §§ 6o(1)(A) and 6o(1)(B), and Abrahams and Asaro as controlling persons, pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2000), and it further appearing to the satisfaction of the Court that this is a proper case for granting a statutory *ex parte* restraining order to preserve the *status quo* and to protect public customers from further loss and damage;

IT IS HEREBY ORDERED:

1. That Wall Street Underground, Inc., Web Fulfillment Centre, Inc., Derek Abrahams, Frank Asaro and Nicholas A. Guarino, Jr., all persons insofar as they are acting in the capacity of agents, servants, employees, successors, assigns or attorneys of the defendants, and all persons insofar as they are acting in active concert or participation with him, who receive actual notice of this Order by personal service or otherwise, shall be prohibited from directly or indirectly:

- a) Dissipating, withdrawing, transferring, removing, concealing or disposing of, in any manner, any funds, assets or other property of, or within the custody, control or possession of the defendants, including funds or property of investors, wherever located (including any funds held in Euro Bank, Cayman Islands), whether held in the name of the Defendants or otherwise, and the assets affected by this paragraph shall include both existing assets and assets acquired after the effective date of this Order, and

- b) Destroying, mutilating, concealing, altering or disposing of, in any manner, any of the books and records, documents, correspondence, brochures, manuals, electronically stored data, tape records or other property of the Defendants, wherever located, including all such records concerning his business operations, until further order of the Court.

2. IT IS FURTHER ORDERED that each firm, corporation or other person or entity with notice which holds, or which is a depository of, funds, securities, property, or other assets of or under the control of Wall Street Underground, Inc., Web Fulfillment Centre, Inc., Derek Abrahams, Frank Asaro and Nicholas A. Guarino, Jr., including funds and property of investors, is prohibited from transferring, withdrawing, removing or disposing of any such funds, securities, property, or other assets until further order of the Court.

3. IT IS FURTHER ORDERED that representatives of the Commission be allowed to immediately inspect the books, records and other electronically stored data, tape recording, and other documents of Wall Street Underground, Inc., Web Fulfillment Centre, Inc., Derek Abrahams, Frank Asaro and Nicholas A. Guarino, Jr. its agents, including all such records of his business operations, wherever they are situated and whether they are in the hands of the Defendants or others, and to copy said documents, data, and records either on or off the premises wherever they may be situated.

4. IT IS FURTHER ORDERED that copies of this Order may be served by any means, including facsimile transmission, upon any entity or person that may have possession, custody, or control of any documents or assets of defendants or that may be subject to any provision of this Order. Service of the summons, Complaint or other process may be effected by U.S. Marshal or deputy U.S. Marshal, or in accordance with Fed. R. Civ. P. 4.

5. IT IS FURTHER ORDERED that this Statutory Restraining Order shall remain in full force and effect until further Order of this Court, upon application, notice and an opportunity to be heard.

6. IT IS FURTHER ORDERED that plaintiff's Motion for a Preliminary Injunction is set for hearing on Friday, May 9, 2003, at 9:30 a.m. o'clock at the U.S. Courthouse, 500 State Avenue, Kansas City, Kansas, 66101 in courtroom 463.

Date: April 23, 2003

s/ Carlos Murguia
CARLOS MURGUIA
United States District Judge

Time: 10:35 a.m.

APPROVED:

s/Rocell J. Cyrus
Trial Attorney

s/ Rosemary Hollinger
Associate Director

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